

## DISCRIMINATION

Mr. REID. Mr. President, yesterday the Supreme Court heard oral arguments in the case of *Fisher v. University of Texas*. In that case the plaintiff was challenging the affirmative action program the University of Texas has.

During those oral arguments, conservative Justice Scalia asked whether affirmative action harms minority students by placing them in environments that are too academically challenging for them. Justice Scalia said the following about African-American students: "There are those who contend that it does not benefit African Americans to get them into the University of Texas where they do not do well, as opposed to having them go to a less advanced school, a slower-track school where they do well."

Justice Scalia further argued that African-American students "come from lesser schools where they do not feel that they're . . . being pushed ahead in . . . classes that are too . . . fast for them" and that the University of Texas should not take really qualified African-American students because that means "the number of . . . really competent blacks admitted to lesser schools turns out to be less."

But that wasn't enough. This is what else he said: "I don't think it stands to reason that it's a good thing for the University of Texas to admit as many blacks as possible."

It is stunning that a man of his intellect—and I have always acknowledged his intellect, but these ideas that he pronounced yesterday are racist in application if not intent. I don't know about his intent, but it is deeply disturbing to hear a Supreme Court Justice endorse racist ideas from the bench of the Nation's highest Court. His endorsement of racist theories has frightening ramifications, not the least of which is to undermine the academic achievements of Americans, African Americans especially.

Earlier this week I spoke about the Republican platform, which has a lot of hate in it. As we speak, Donald Trump is proposing to ban Muslim immigration. Other leading candidates are proposing religious tests, tossing around slurs on a daily basis.

The top two Republican leaders in the United States have said they will support Donald Trump if he is nominated. And now a Republican-appointed Justice is endorsing racist ideas from the Supreme Court bench. The only difference between the ideas endorsed by Trump and Scalia is that Scalia has a robe and a lifetime appointment. Ideas such as these don't belong on the Internet, let alone the mouths of the Nation's leaders.

The idea that African-American students are somehow inherently intellectually inferior to other students is despicable. It is a throwback to a time that America left behind half a century ago. The idea that we should be pushing well-qualified African-American students out of the top universities

into lesser schools is unacceptable. That Justice Scalia could raise such an uninformed idea shows just how out of touch he is with the values of this Nation. It goes without saying that an African-American student has the same potential to succeed in an academically challenging environment as any other student.

I firmly continue to believe the United States of America is the greatest Nation in the world because of our ability to embrace men and women of diverse backgrounds and provide them with the opportunity to succeed. Colleges and universities that welcome diversity provide their students with an opportunity many in the world can never hope to obtain. Learning with people from different backgrounds spurs creativity and innovation. Research has shown that increased racial diversity on campuses produces higher levels of academic achievement for all students, and Fortune 500 companies agree that embracing diversity is good for the bottom line.

The Supreme Court previously has acknowledged that diversity provides a substantial and compelling contribution to our educational system. Yet Justice Scalia's comments paint a picture of two disturbing realities.

Despite the progress our Nation has made on diversity and inclusion, there is still much work to do to ensure we are giving every American a fair shot regardless of race, ethnicity, or religion. As a nation, we still have the responsibility to direct adequate resources to our educational system to prepare all students for higher education.

Generations of discrimination and legally sanctioned inequality have produced racial disparities in our educational system—sad but true. These disparities must be addressed by embracing diversity in our schools, workplaces, markets, and neighborhoods while investing in adequate resources for all students, from pre-K to higher education.

Our Nation was founded on the values of liberty, justice, and equality. Justice Scalia's distressing comments are a reminder that we must remain vigilant to safeguard opportunity for all Americans. Embracing diversity is not only the right thing to do, it is the American way.

Lyndon Johnson said:

It is not enough just to open the gates of opportunity. All our citizens must have the ability to walk through those gates.

It is our responsibility as a nation to open the gates of opportunity for all Americans, in spite of what Justice Scalia said yesterday.

Mr. President, has the Chair announced the business of the day?

The PRESIDING OFFICER. It has been announced.

Mr. REID. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

## RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

## ACCOMPLISHMENTS OF THE NEW SENATE

Mr. McCONNELL. Mr. President, what a difference a new Senate can make—what a difference.

Some may have thought Washington would never agree on a replacement for No Child Left Behind. Years of inaction on the Senate floor gave ample cause for doubt. Some may have been skeptical when a new Senate with a new approach resolved to finally solve the problem—but no longer.

Yesterday, the new Senate voted overwhelmingly to deliver the most significant K-12 education reform in well over a decade. The President will sign the bipartisan Every Student Succeeds Act later this morning.

Here is what this bipartisan law will do: replace a broken law with conservative reform that will help students succeed instead of helping Washington grow. That means swapping one-size-fits-all Federal mandates for greater State and local flexibility. That means bringing an end to the ability of far-away bureaucrats to impose common core. That means strengthening charter schools. That means putting education back in the hands of those who know students' needs best—parents, teachers, States, and school boards.

The Every Student Succeeds Act is conservative reform passed on a bipartisan basis. The Wall Street Journal calls it "the largest devolution of federal control to the states in a quarter-century," and it is an important achievement for our kids and for our country.

So I want to thank again the Senators who worked together to make this possible—Senator ALEXANDER, a Republican from Tennessee, and Senator MURRAY, a Democrat from Washington. They took advantage of the opportunities a new and more open Senate provided. They put good legislation together and then placed personal stakes in its success. They worked hard. They labored over many months, and they didn't lose sight of what a legislative exercise like this one should really be about: good policy, better outcomes for our country, and, with the bill we passed yesterday—the bill the President will sign today—greater opportunities for every student to succeed.

Senator ALEXANDER was right when he said that "this bill is just one more example that Congress is back to work." It is worth noting a point he made the other day as well: "This has

been one of the most productive Senate years in a long time," he said. "The Republican Senate majority is making a real difference, particularly [for] 100,000 public schools, [for] 3.5 million teachers, and [for] 50 million children."

But perhaps the American people are wondering why. Perhaps they are wondering why the Senate is suddenly back to work this year. Perhaps they are wondering why some issues are suddenly passing now when they weren't passing previously. Let me turn back to the rest of what Senator ALEXANDER said, because I think the answer for a bill like ESSA is really quite simple. "We're doing it," he said, "by working in a bipartisan way with our colleagues, which is, I think, the way the American people want us to govern."

Here is the idea. Give Senators of both parties more of a say in the process, and Senators of both parties are likely to take more of a stake in the outcome. That is why, on this bill, we saw a more open process that started way back in the committee stage. Senator ALEXANDER and Senator MURRAY, the top Republican and the top Democrat on the education committee, understood that No Child Left Behind had to be fixed after years of inaction. So they worked together on a bipartisan basis, and the Senate passed the most significant K-12 education reform in years.

Take another example. Senator INHOFE and Senator BOXER, the top Republican and top Democrat on the public works committee, understood that crumbling roads and bridges had to be fixed after years of inaction. So they worked together on a bipartisan basis, and the Senate passed the first long-term transportation bill in a decade.

How about this one: Senator BURR and Senator FEINSTEIN, the top Republican and top Democrat on the Intelligence Committee, understood that Americans' online privacy and financial transactions deserved some protection after years of inaction. So they worked together on a bipartisan basis, and the Senate passed an important cyber security bill.

Across the new Congress, we saw several other stuck issues come unstuck too: a decisive end to Washington's annual doc fix drama, strong action to help knock down foreign trade barriers, and extending a hand of compassion to victims of modern slavery. All of it passed in the new Congress, and all of it passed on a bipartisan basis.

Now, let me be clear. No one is saying that all of the Senate's challenges have been ironed out. Of course we know that our work is ongoing. Of course we know there will always be bumps along the way.

But here is what we can say for sure. The new Senate has taken serious steps to foster a more open atmosphere on many issues. The new Senate has seen real progress made for our country, often on a bipartisan basis, and we are proud of that. We are proud of that. Whether we are Republican or Demo-

crat, I think that is something we can all take pride in as Americans.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. CAPITO. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROUNDS). Without objection, it is so ordered.

Mrs. CAPITO. Mr. President, I ask unanimous consent to speak in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### SENATE ACCOMPLISHMENTS

Mrs. CAPITO. Mr. President, I rise today to highlight the positive change our new Republican majority has brought to the U.S. Senate in 2015.

As a first-year Senator—and I will remind everybody that I spent a lot of time on the other side of the Capitol observing the Senate—I came to the body looking to improve this institution that for far too long was not working for American families. Not only did the Senate fail to pass legislation that would help our seniors, students, and workers, it failed to even debate critical issues. Looking from the House side across the hall in the Capitol, we really couldn't understand that.

In 2014 the Senate only voted on 15 amendments. This year, under new leadership, we have taken hundreds of amendment votes and committees are hard at work. We debated issues, clearly stated our policy priorities, and broke the gridlock that defined the previous Congress.

Allowing Senators from both sides of the aisle to offer amendments, participate in the process, and take votes is the best way to achieve bipartisan legislation. It is common sense. Isn't that the way it is supposed to be? It is kind of how I thought it should be, and I am glad to know that this year, that is what we are doing. Working together is the only way to enact policies that will improve the lives of the American people.

The new Senate work has borne tremendous fruit, particularly in the past week. We passed the first major overhaul of elementary and secondary education in more than a decade, and the President is poised to sign this into law. Eighty-five Senators voted for it; that is a big bipartisan majority.

The Every Student Succeeds Act strikes the proper balance between flexibility and accountability. The bill ends education waivers and the Federal common core mandate that had turned Washington bureaucrats into basically a national school board. No one cares more about a student's success than a child's parents and their teachers, and those closest to our children should be the ones empowered to make those de-

cisions. At the same time, accountability matters.

I have three children who went through the school system, and testing done properly is a good thing. A parent wants to know where their child stands. We want to know what their weaknesses and successes are, and we want to know where the school stands. But under this bill, States will have multiple measures of student achievement, not just testing. Test results will just be a part of that evaluation, and States will have broad discretion to measure other factors. High schools will now report on the rate of graduates going on to higher education. Whether graduates are prepared to continue education is, in my view, an important measure of success.

This bill also recognizes the importance of technology and education, not just in the classroom but also at home. It includes language that Senator KING and I introduced to study the homework gap. Students who lack access to fast and reliable broadband at home need to be able to continue learning outside the classroom.

If the teacher gives an assignment and students are given a device and they take it home, if they don't have the connectivity, they are behind. But if they do have the connectivity—the access—they can continue their education at home and be prepared the next day.

States will now have flexibility to use Federal resources to improve this access to technology. This is a significant step forward, I think, for the education system that is outdated and out of step with the needs of our students. It is particularly hard-hitting in rural communities.

Last week we passed and the President signed the first long-term highway bill in 17 years. Since 2009, Congress has lurched from one short-term patch to another, leaving officials across the country unable to plan future highway and transit projects.

The shameful inability to make a lasting investment in our infrastructure came to an end last week. The FAST Act invests \$2.5 billion in West Virginia's roads and bridges over 5 years. I can say after going home last weekend that the biggest issue raised to me in a congratulatory way was this: Thank you for passing the highway bill. With it, the completion of Route 35 in West Virginia and Corridor H will bring economic potential to our State. Key projects such as the King Coal Highway and the Coalfields Expressway will help isolated communities attract businesses and provide jobs. States will also now have more flexibility, which is exactly what they want and need, to spend Federal dollars.

New permitting reforms will help taxpayer dollars go farther and enable projects to be completed more quickly. Time is money, and if we can complete in a shorter time span and do the regulatory obligations at the same time—